



Bay TMDL ESA Consultation

Shawn Garvin to: Pat.Kurkul

12/23/2010 04:22 PM

Cc: Christopher.Mantzaris, Dan.Morris, Jon Capacasa, Larry Merrill,
Christopher Day

Patricia - I tried to call you yesterday. I understand you are out of the office but checking e-mail.

As we get close to the establishment of the Chesapeake Bay Total Maximum Daily Load (TMDL) scheduled for signature next Wednesday, December 29, 2010, I wanted to express my appreciation for the work of your staff. The Bay TMDL is a comprehensive "pollution diet" with strong accountability measures to drive significant sediment and nutrient reductions to restore clean water and aquatic life resources in the Chesapeake Bay and tidal tributaries.

As you know, our respective agencies are actively engaged in consultation under Section 7(c) of the Endangered Species Act (ESA) regarding the effect of the TMDL on the shortnose sturgeon. This consultation also addresses certain revisions to state water quality standards in Maryland, Virginia and the District of Columbia. I understand we are very close to concluding consultation, but that EPA still needs to get your staff certain information. I want you to know that our delays in getting you that information is not related to the importance EPA places on satisfying our responsibilities under the ESA. Staff have been working days, nights and weekends towards the many tasks of such a monumental pollution reduction TMDL plan.

In case we are not able to conclude consultation prior to the establishment of the Bay TMDL, I commit to completing that consultation as soon as possible. If that is the case, EPA would take its actions pursuant to Section 7(d) of the ESA. As you know, under 7(d), EPA moves forward after finding that the action would not constitute an irreversible or irretrievable commitment of resources that has the effect of foreclosing the formulation, or implementation, of reasonable and prudent alternatives which would avoid violating Section 7(a)(2) of the ESA and are not likely to adversely affect threatened and endangered species in the tidal Chesapeake Bay (i.e., shortnose sturgeon).

Again, I appreciate the constructive engagement of your staff and agency towards our shared mission of restoration of aquatic habitat and clean water. Please call me at 215-814-2900 or reply to this e-mail if you have any concerns or questions.

Happy Holidays.!

Thank you - Shawn

Shawn M. Garvin
Regional Administrator
EPA, Region III